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From: MARTIN & FERRARO, LLP (OH)

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OCT 21 2008**MARTIN & FERRARO, LLP**ATTORNEYS AT LAW
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632Telephone
(330) 877-0700Facsimile
(330) 877-2030

FACSIMILE TRANSMITTAL

TO:**Name:** Office of Patent Publication
Certificate of Corrections Branch**Firm:** U.S. Patent & Trademark Office**Fax No.:** 571-273-8300**Subject:** Request for Certificate of Correction

U.S. Patent No. 7,431,722

Issued: October 7, 2008

Gary K. Michelson

APPARATUS INCLUDING A GUARD MEMBER

HAVING A PASSAGE WITH A NON-

CIRCULAR CROSS SECTION FOR PROVIDING

PROTECTED ACCESS TO THE SPINE

Attorney Docket No. 101.0044-03000

Customer No. 22882

Confirmation No.: 7688

FROM:**Name:** Thomas H. Martin, Esq.**Phone No.:** 330-877-2277**No. of Pages (including this):** 11**Date:** October 21, 2008**Confirmation Copy to Follow:** NO

Certificate

OCT 22 2008

of Correction

Message:**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Request for Certificate of Correction (\$100 fee is to be charged to Deposit Account No. 50-3726) with 1 sheet of Form PTO/SB/44 (in duplicate) and 6 pages of supporting documents are being facsimile transmitted to the U.S. Patent and Trademark Office on October 21, 2008.


Sandra L. Blackmon

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PATENT
Attorney Docket No. 101.0044-03000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re U.S. Patent of:)
Gary K. Michelson)
Patent No. 7,431,722) (Serial No.: 09/497,590)
Issue Date: October 7, 2008) (Filed: June 6, 2000)
For: APPARATUS INCLUDING A GUARD)
MEMBER HAVING A PASSAGE)
WITH A NON-CIRCULAR CROSS)
SECTION FOR PROVIDING)
PROTECTED ACCESS TO THE)
SPINE)

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 254 and 255 and 37 C.F.R. §§ 1.322 and 1.323, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of Form PTO/SB/44 are appended. The complete Certificate of Correction involves one (1) page.

The mistakes identified in the appended Form to the Crawley et al. reference listing under "Other Publications" and to issued claims 18 and 57 (pending claims 126 and 166, respectively) are of a clerical or typographical nature, or of minor character, and resulted from errors made in good faith by Applicant.

The remaining mistakes identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent, and as evidenced in the attached copies of the following documents:

1. Pages 2, 7, and 8 of the Form PTO-1449 filed with the Information Disclosure Statement on June 6, 2000;

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2. Page 1 of the Form PTO-1449 filed with the Information Disclosure Statement on September 16, 2003;
3. Page 3 of the January 30, 2007 Amendment, showing the correct language of issued claim 10 (pending claim 114); and
4. Page 7 of the January 30, 2007 Amendment, showing the correct language of issued claim 49 (pending claim 158).

The requisite fee of \$100.00 as set forth in 37 C.F.R. § 1.20(a) to cover the costs of issuing this Certificate is to be charged to Deposit Account No. 50-3726.

Should any additional fees be needed, authorization is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 50-3726.

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: October 21, 2008

By: 
Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

OCT 22 2008

PTO/SB/44 (04-05)
(Also Form PTO-1050)UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,431,722
APPLICATION NO. : 09/497,590
ISSUE DATE : October 7, 2008
INVENTOR(S) : Gary K. Michelson

Page 1 of 1

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page 2, Section (56) References Cited:

U.S. Patent Documents, first column, line 19: change "Me et al." to --Ma et al.--.

Title Page 3, Section (56) References Cited:

Foreign Patent Documents, second column, line 28: change "2/1992" to --2/1993--;
Other Publications, line 23: change "Springler" to --Springer--;
Other Publications, line 25: change "Springler" to --Springer--; and
Other Publications, line 27: change "Springler" to --Springer--.

Title Page 4, Section (56) References Cited:

Other Publications, second column, line 1: change "Raveh." to --Raveh.--; and
Other Publications, second column, line 17: change "(1988." to --(1988).--;

Column 39:

Line 24: change "for the insertion" to --for insertion--; and
Line 48: change "a least" to --at least--.

Column 41:

Line 28: change "for the insertion" to --for insertion--; and
Line 52: change "a least" to --at least--.

MAILING ADDRESS OF SENDER:
Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

PATENT NO. 7,431,722

OCT 22 2008

PTO/SB/44 (04-05)
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PATENT NO. 7,431,722

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Lit. 2MBJ	3,848,601	11/19/74	Ma et al.			
	3,855,638	12/24/74	Pillar			
	3,867,728	2/25/75	Stubstad et al.			
	3,867,850	2/25/75	Fischell			
Lit. 2	3,875,595	4/8/75	Froning			
	3,888,260	6/10/75	Fischell			
Lit. 2	3,892,232	7/1/75	Neufeld			
Lit. 1	3,905,047	9/16/75	Long			
	3,915,151	10/28/75	Kraus			
	3,916,807	11/4/75	Peterson			
	3,918,440	11/11/75	Kraus			
	3,942,535	3/8/76	Schulman			
	3,948,262	4/6/76	Zaffaroni			
	3,952,334	4/27/76	Bokros et al.			
	3,987,499	10/28/76	Scharbach et al.			
Lit. 1	4,016,651	4/12/77	Kawahara et al.			
	4,027,392	6/7/77	Sewyer et al.			
	4,051,905	10/4/77	Kleino			
	4,059,115	11/22/77	Junashev et al.			
	4,070,514	1/24/78	Entherty et al.			
	4,082,097	4/4/78	Mann et al.			
Lit. 1	4,086,701	6/2/78	Kawahara et al.			
Lit. 1	4,124,028	11/7/78	Bemer et al.			
	4,142,517	3/6/79	Stravopoulos et al.			
	4,168,326	9/18/79	Broemer et al.			
Lit. 1	4,175,555	11/27/79	Harbert			
Lit. 1	4,177,524	12/11/79	Grell et al.			
	4,181,457	1/1/80	Holmes			
	4,197,850	4/15/80	Schulman et al.			
	4,208,516	6/10/80	Pillar			
	4,222,128	9/16/80	Tomonaga et al.			
	4,232,679	11/11/80	Schulman			
	4,232,679 B1	6/31/88	Schulman			
	4,237,948	12/9/80	Jones et al.			
	4,258,716	3/31/81	Sutherland			
Lit. 1	4,259,072	3/31/81	Hirabayashi et al.			
Lit. 1	4,262,388	4/21/81	Roux			
	4,271,832	6/9/81	Evans et al.			
	4,289,123	9/15/81	Dunn			

Lit. 1/M.B./	DE 3505587 A1	6/5/86	Germany			
	61-122859	6/10/86	Japan			No
	2 581 336	11/7/86	France			
	62-155846	7/10/87	Japan			No
	DE 36 08 163 A1	9/24/87	Germany			No
	0 260 044	3/16/88	Europe			
	0303241 A2	2/15/89	EPO			
	0 307 241	3/16/89	Europe			Yes
	91/06266	5/16/91	PCT			
	0499465 A1	8/18/92	EPO			
	DE 41 04 359 A1	8/20/92	Germany			No
	92/14423	9/3/92	PCT			
	93/01771	2/4/93	PCT			
	0551167 A1	7/14/93	EPO			
	0577179 A1	1/5/94	EPO			
	0 599 419 A2	6/1/94	Europe			Yes
	2 703 580	10/14/94	France			No
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)						
Lit. 2	Codman & Shurtleff, Inc.; Neurosurgical Catalog: USS 20556-20945 (1986)					
Lit. 2	Codman Surgical Instruments Catalog: USS 20073-20555 (1979)					
Lit. 2	Yashon, David; Spinal Injury; Second Edition; Appleton-Century-Crofts; pp. 245-258 (1986)					
	Adams, et al.; Outline of Orthopaedics, Eleventh Edition; Trunk and Spine, p. 194					
	Herkowitz, et al.; Principles of Bone Fusion; The Spine, Third Edition; Chapter 44, p. 1739					
	Muschler, et al.; The Biology of Spinal Fusion; Spinal Fusion Science and Technique, Cotler and Cotler, pp. 9-13.					
	Zindrick, et al.; Lumbar Spine Fusion: Different Types and Indications; The Lumbar Spine, Vol. 1, Second Edition, pp. 588-593 (1996)					
	Gillingham, F.J., et al.; Automatic Patient Monitoring in the Ward; Brit. J. Surg., Vol. 53, No. 10, pp. 884-886 (October 1966)					
	Maloney, A.F.J., et al.; Clinical and Pathological Observations in Fatal Head Injuries, Brit. J. Surg., Vol. 56, No. 1, pp. 23-31 (January 1969)					
	Harris, P., et al.; Spinal Deformity After Spinal Cord Injury; Paraplegia, Vol. 6, No. 4, pp. 232-238 (February 1969)					
	Gillingham, F.J., et al.; Head Injuries; Proceedings of the 18 th World Congress of the International College of Surgeons, Rome, pp. 68-71 (May 28-31, 1972)					
	Whatmore, W. J.; Sincipital Encephalomeningoceles; Brit. J. Surg., Vol. 60, No. 4, pp. 261-270 (April 1973)					
	Whatmore, W. J.; Meningioma Following Trauma; Brit. J. Surg., Vol. 60, No. 6, pp. 496-498 (June 1973)					
Lit. 1	Bagby, George W.; Wobbler Syndrome in Horses (the Ataxic Horse); Spokane County Medical Society Bulletin; Spring 1979					
	Rathke, F.W., et al.; Surgery of the Spine; Atlas of Orthopaedic Operations, Vol. 1, p. 137, W.B. Saunders Co., Philadelphia (1979)					
Lit. 1	Albrektsson, T., et al.; Osseointegrated Titanium Implants; Acta. Orthop. Scand.; Vol. 52:155-170 (1981)					
Lit. 1	Raveh, J., et al.; Neue Rekonstruktionsmöglichkeiten des Unterdefekts bei knöchernen Defekten nach Tumoresektionen; Der Chirurg Vol. 53:459-467 (1982)					

MBJ	Crock, H. V.; Practice of Spinal Surgery; Springer-Verlag/Wien, New York (1983)
Lit. and 2	DeBowes, R.M., et al.; Study of Bovine...Steel Baskets; Transactions of the 29th Annual Meeting; Orthopaedic Research Society, Vol. 8, p. 407, March 8-10 (1983)
	O'Neill, P., et al.; Spinal Meningoceles in Association with Neurofibromatosis; Neurosurgery, Vol. 13, No. 1, pp. 82-84 (July 1983)
Lit. 2	Brandt, L., et al.; A Dowel Insert for Anterior Cervical Interbody Fusion; J. Neurosurg. 61:793-794 (October 1984).
	Whatmore, W.J., et al.; The Coventry Cervical Spreader and Dowel Insert; ACTA Neurochirurgica, Vol. 70, FASC. 1-2 (1984)
Lit.	Raveh, J., et al.; Use of the Titanium-coated Hollow Screw and Reconstruction Plate System in Bridging of Lower Jaw Defects; J. Oral Maxillofac Surg. 42:281-294 (1984)
Lit. and 2	Otero-Vich, Jose M.; Anterior Cervical Interbody Fusion with Threaded Cylindrical Bone; J. Neurosurg 83:750-753 (November 1985)
Lit.	Morscher, E., et al.; Die vordere Verplattung der Halswirbelsäule mit dem Hohlschrauben-Plattensystem aus Titanium, Der Chirurg, Vol. 57, pp. 702-707 (1986) with English Translation
Lit. and 2	Bagby, G.W.; Basket Implant Facilitates Spinal Fusion; Orthopedics Today, Vol. 7, No. 10, (October 1987)
Lit.	Butts, M. K., et al.; Biomechanical Analysis of a New Method for Spinal Interbody Fixation: 1987 Symposium, American Society of Mechanical Engineers, "Advances in Bioengineering", Boston, MA (Dec. 13-18, 1987)
Lit.	Crawley et al.; A Modified Cloward's Technique for Arthrodesis of the Normal Metacarpophalangeal Joint in the Horse; Veterinary Surgery, Vol. 17, No. 3, pp. 117-127 (1988)
Lit.	Raveh, J., et al.; Surgical Procedures for Reconstruction of the Lower Jaw Using the Titanium-Coated Hollow-Screw Reconstruction Plate System: Bridging of Defects; Otolaryngologic Clinics of North America; Vol 20, No. 3 (August 1987)
	Whatmore, W. J.; Proceedings of the Society of British Neurological Surgeons; Journal of Neurology, Neurosurgery, and Psychiatry, 50:1083-1100 (1987)
Lit. 2	Goldthwaite, N., et al.; Toward Percutaneous Spine Fusion; Ch. 45; Lumbar Spine Surgery; C.V. Mosby Company, pp. 512-522 (1987)
Lit. 1 and 2	Bagby, G.W.; Arthrodesis by the Distraction-Compression Method Using a Stainless Steel Implant; Orthopedics, Vol. II, No. 6, pp. 931-34 (June 1987)
Lit. 1	Itoman, M., et al.; Banked Bone Grafting for Bone Defect Repair—Clinical Evaluation of Bone Union and Graft Incorporation; J. Jpn. Orthop. Assoc. 62:461-469 (1988)
	Kane, W.J.; Direct Current Electrical Bone Growth Stimulation for Spinal Fusion; Spine, Vol. 13, No. 3, pp. 363-365 (March 1988)
	The SpF-T Spinal Fusion Stimulator: An Efficacious Adjunct that Meets the Diverse Needs of Spine Patients; EBI Medical Systems; (August 1991)
	Schmitz et al.; Performance of Alloplastic Materials and Design of an Artificial Disc; The Artificial Disc, Brock, Mayer, Weigel; pp. 23-34 (1991)
	The Use of Direct Current for Electrically Induced Osteogenesis; The Positive Effect of an Electronegative charge on Bone Growth; EBI Medical Systems (Feb. 1993)
	Mylonas, C., et al.; Anterior Cervical Decompression and Fusion Using the Coventry Cervical Spreader and Dowel Insert; British Journal of Neurosurgery, 7:545-549 (1993)
	Fusion of the Lumbar Spine; Anterior Monosegmental Fusion L5-S1, Atlas of Spinal Operations, Thieme, pp. 270-274 (1993)
	Spine Basics, Danek Group, Inc., Glossary (1993)
↓	Lumbar Spine Surgery, Techniques and Complications; History of Lumbar Spine Surgery (1994); pp. 11-15, 27, 30, 35-45, 285-288.
EXAMINER	Michael Brown/
DATE CONSIDERED	07/29/2008
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 608; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.	

OMB 0651-0031

Substitute for FORM PTO-1449		SEP 21 2003		Attorney Docket Number 101.0044-03000		Customer No. 22682	
INFORMATION DISCLOSURE IN AN APPLICATION				Applicant Gary K. Michelson, M.D.		Application Number 09/497,590	
(Use several sheets if necessary) Sheet <u>1</u> of <u>2</u>				Filing Date June 6, 2000		Group Art Unit 3732	
Examiner Initial		Document Number		Date		Name	
Lit. 3a/3b		3,719,186		03/1973		Marig, Jr.	
Lit. 3c		4,349,921		09/1982		Kuntz	
Lit. 3b/3c		4,570,824		02/1986		Wu	
Lit. 3c		4,714,489		12/1987		Kenna	
Lit. 3c		5,026,373		06/1991		Ray et al.	
Lit. 3a/3c		5,055,104		10/1991		Ray	
Lit. 3a/3c		5,489,307		02/1996		Kuslich et al.	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER		DATE		NAME	
Lit. 3a/3b		3,719,186		03/1973		Marig, Jr.	
Lit. 3c		4,349,921		09/1982		Kuntz	
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Lit. 3c		5,026,373		06/1991		Ray et al.	
Lit. 3a/3c		5,055,104		10/1991		Ray	
Lit. 3a/3c		5,489,307		02/1996		Kuslich et al.	
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER		DATE		COUNTRY	
Lit. 3a/3b/3c		EP 0 077 150		04/1983		Europe	
						TRANSLATION (YES/NO)	
						N/A	
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
Lit. 3a/3c		Cloward, Ralph B.; Surgical Techniques for Lumbar Disc Lesions; Codman; Signature Serial 3.					
Lit. 3c		Cloward, Ralph B.; Ruptured Cervical Intervertebral Discs: Removal of Disc & Osteophytes & Anterior Cervical Interbody Fusion (A.C.I.F.); Codman; Signature Series 4.					
Lit. 3		Cloward, Ralph B.; Recent Advances in Surgery of the Cervical Spine; pp. 285-293; German Society For Neurosurgery; Volume 2 Cervical Spine Operations; Excerpta Medica.					
Lit. 3a/3b		Otero-Vich, Jose M.; Anterior Cervical Interbody Fusion with Threaded Cylindrical Bone; pp. 760-763; Journal of Neurosurgery, November 1985, Volume 63, No. 5.					
Lit. 3c		Hutter, Charles George; Spinal Stenosis and Posterior Lumbar Interbody Fusion; pp. 103-114; Clinical Orthopaedics and Related Research; No. 193; The Association of Bone and Joint Surgeons.					
Lit. 3c		Lin, Paul M.; Posterior Lumbar Interbody Fusion; pp. 114-122; Charles C. Thomas; Springfield, Illinois.					
Lit. 3c		Lin, Paul M.; Lumbar Interbody Fusion: Principles and Techniques in Spine Surgery; Techniques and Complications; pp. 61, 98, 120, 146, 173, 180-184, 204, 224, 225, 231; Aspen Publishers, Inc.; 1989.					
Lit. 3c		Tan, S.B.; A Modified Technique of Anterior Lumbar Fusion with Femoral Cortical Allograft; pp. 83-93; The Journal of Orthopaedic Surgical Techniques, Volume 5, No. 3, 1990.					
Lit. 3a/3b		Muller, M.E.; Manual of Internal Fixation: Techniques Recommended by the AO Group; Second Edition, Expanded and Revised; pp. 3-20, 27-41, 63-68, 71-78, 84, 311, 324; Springer-Verlag; 1979.					
Lit. 3a/3b		Hertelzer, G.; Manual on the AO/ASIF Tubular External Fixator; pp. 85-91; Springer-Verlag; 1985.					
Lit. 3a/3b		Helm, Urs; Small Fragment Set Manual: Technique Recommended by the ASIF-Group; pp. 5-7, 10, 20, 21, 30; Springer-Verlag; 1974.					
Lit. 3c		Hammon, Paul H.; Anterior Excision and Vertebral Body Fusion Operation for Intervertebral Disk Syndromes of the Lower Lumbar Spine: Three- to Five-Year Results in 244 Cases; pp. 107-127; Clinical Orthopaedics and Related Research, No. 26, J.B. Lippincott Company, 1963.					

Form PTO 1449 MASTER
PTO/SB/ 08 (10-02)

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

OCT 22 2008

Application No. 09/497,590
Amendment dated January 30, 2007
Reply to Office Action of August 28, 2006

107. (previously presented) The apparatus of claim 106, wherein said extensions are diametrically opposed to each other and spaced apart from one another to provide access to the adjacent vertebral bodies from within the disc space.
108. (previously presented) The apparatus of claim 105, wherein the height of said extension has at least a portion that approximates the height of the normal disc space between the adjacent vertebral bodies.
109. (previously presented) The apparatus of claim 106, wherein said extensions have the same height.
110. (previously presented) The apparatus of claim 105, wherein said upper and lower surfaces for bearing against the adjacent vertebral bodies diverge away from said guard member along at least a portion of their length.
111. (previously presented) The apparatus of claim 105, wherein said upper and lower surfaces for bearing against the adjacent vertebral bodies converge away from said guard member along at least a portion of their length.
112. (previously presented) The apparatus of claim 105 further comprising means for penetrating at least one of the two adjacent vertebral bodies.
113. (previously presented) The apparatus of claim 112, wherein said penetrating means includes a prong for penetrably engaging at least one of the adjacent vertebral bodies.
- X 114. (previously presented) The apparatus of claim 112, wherein said penetrating means includes teeth for insertion into the two adjacent vertebral bodies. X
115. (previously presented) The apparatus of claim 112, wherein said penetrating means is located at said distal end of said guard member.

Claims 116-120 (cancelled).

121. (previously presented) The apparatus of claim 105, wherein said extension has a tapered leading end to facilitate placement of said extension into the disc space.
122. (previously presented) The apparatus of claim 105, in combination with a spinal fusion implant.

OCT 22 2008

Application No. 09/497,590
Amendment dated January 30, 2007
Reply to Office Action of August 28, 2006

properly align and distance apart the adjacent vertebral bodies from at least in part within the disc space between the adjacent vertebral bodies.

150. (previously presented) The apparatus of claim 149, further comprising a second extension extending from said distal end of said guard member for insertion into the disc space and for bearing against the adjacent vertebral bodies.
151. (previously presented) The apparatus of claim 150, wherein said extensions are diametrically opposed to each other and spaced apart from one another to provide access to the adjacent vertebral bodies from within the disc space.
152. (previously presented) The apparatus of claim 150, wherein said extensions have the same height.
153. (previously presented) The apparatus of claim 149, wherein the height of said extension has at least a portion that approximates the height of the normal disc space between the adjacent vertebral bodies.
154. (previously presented) The apparatus of claim 149, wherein said upper and lower surfaces for bearing against the adjacent vertebral bodies diverge away from said guard member along at least a portion of their length.
155. (previously presented) The apparatus of claim 149, wherein said upper and lower surfaces for bearing against the adjacent vertebral bodies converge away from said guard member along at least a portion of their length.
156. (previously presented) The apparatus of claim 149 further comprising means for penetrating at least one of the two adjacent vertebral bodies.
157. (previously presented) The apparatus of claim 156, wherein said penetrating means includes a prong for penetrably engaging at least one of the adjacent vertebral bodies.
- X 158. (previously presented) The apparatus of claim 156, wherein said penetrating means includes teeth for insertion into the two adjacent vertebral bodies. X
159. (previously presented) The apparatus of claim 156, wherein said penetrating means is located at said distal end of said guard member.